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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,274	07/09/2003	George Goicoechea	BSI-210USS	1706
23122	7590	03/21/2008	EXAMINER	
RATNERPRESTIA P O BOX 980 VALLEY FORGE, PA 19482-0980			BLANCO, JAVIER G	
		ART UNIT	PAPER NUMBER	
		3774		
		MAIL DATE		DELIVERY MODE
		03/21/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10616274	7/9/03	GOICOECHEA ET AL.	BSI-210USS

EXAMINER

RATNERPRESTIA  
P O BOX 980  
VALLEY FORGE, PA 19482-0980

JAVIER G.. BLANCO

ART UNIT      PAPER

3774      20080320

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner for Patents

1. Attached letter
2. Attached IDS's filed on 7/16/2007 and 8/27/2007

/Javier G. Blanco/  
Examiner, Art Unit 3774

***INTERFERENCE***

Applicant has suggested an interference pursuant to 37 CFR 41.202(a) in a communication filed August 23, 2006.

Applicant has failed to provide a detailed explanation as to why applicant will prevail on priority. See 37 CFR 41.202(a)(4), (a)(6), (d) and MPEP § 2304.02(c). In particular, applicant's showing is deficient with respect to 37 CFR 41.202(a)(6) in that it does not provide enough evidence to support applicant's allegation he is senior party as set forth in the showing under 37 CFR 41.202 (a)(4) as explained hereinbelow.

In the August 23, 2006 request for interference under 37 CFR 41.202 (a)(4) applicant must explain in detail why the applicant will prevail on priority. In response, applicant asserts senior party status by stating the instant application 10/616274 is a continuation of 08/462,987 which is a division of 08/317,763 which is a continuation-in-part of 08/312,881 which in turn claims priority to EP94401306.9 and EB94400284.9. Additionally, under 37 CFR 41.202 (a)(6), for *each constructive reduction to practice* for which the applicant wishes to be accorded benefit, a chart must be provided showing where the disclosure provides a constructive reduction to practice within the scope of the interfering subject matter. This is to ensure the subject matter not only carries the priority date asserted under 37 CFR 41.202 (a)(4) but that the subject matter was maintained throughout the chain of priority. In the showing provided by applicant on August 23, 2006, the showing under 37 CFR 41.202 (a)(6) only includes the earliest three filings: 08/312,881, EP94401306.9 and EB94400284.9. The remaining files: 08/462,987 and 08/317,763 are not shown thus applicant can not be accorded benefit of these filings. Without these filings, applicant stands as the junior party.

Accordingly, applicant should supplement his request for interference with the addition of a showing under 37 CFR 41.202 (a)(6) which includes all applications in the chain of priority for which the applicant wishes to be accorded benefit.

Additionally, it is noted applicant petitioned and received a six month suspension on November 8, 2006 with the good and sufficient reason being the recent acquisition of the conflicting patent and the need to investigate priority under 37 CFR 41.206 and MPEP 2304.05 as a declaration of interference might not be appropriate in the instant file. This suspension was granted, and a second request for suspension was filed by applicant on May 10, 2007. This second request has been denied. As more than ten months has passed since this second request, applicant is further required, as outlined in MPEP 2304.05, to elect priority between the application and the patent under 35 USC 132(a). In making this election, applicant/owner must eliminate the commonly claimed subject matter. In sum, the public deserves to know which claims it faces.

Applicant is given ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing date of this communication to correct the deficiency (ies). THE PROVISIONS OF 37 CFR 1.136 DO NOT APPLY TO THE TIME SPECIFIED IN THIS ACTION.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Javier G. Blanco whose telephone number is 571-272-4747. The examiner can normally be reached on M-F (9:00 a.m.-7:00 p.m.), first Friday of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Javier G. Blanco/



Examiner, Art Unit 3774